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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,556	02/20/2002	David W. Andrews	2322-0495	4278

20350 7590 02/08/2005

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EXAMINER

BORISSOV, IGOR N

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/081,556

Applicant(s)

ANDREWS, DAVID W.

Examiner

Igor Borissov

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

Amendment received on 11/15/2004 is acknowledged and entered. Claims 1-18 have previously been canceled. New claim 39 has been added. Claims 19-39 are currently pending in the application.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 19-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi (EP 0 911 762 A2) in view of Tracy et al. (US 6,550,672) (Tracy).**

Kikuchi teaches a method and system for providing services related to access to mass transit devices, including:

**Claims 19, 28, 36 and 39,**

providing a smart card having a plurality of fares stored therein (C. 4, L. 16-20);

receiving (downloading) by a controller of an automatic ticket inspection machine (device) information tables, said tables including accumulation of distance traveled, fares, and number of travels over months including a start date and an end date (Figs. 3, 4; C. 7, L. 1-5);

reading said information regarding accumulation of fare transaction from the smart card by means of a smart card reader (C. 5, L. 17-21; C. 7, L. 3-7), said information further comprising accumulated service points corresponding to the traveled distance or the fare (C. 7, L. 55-57);

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calculating (by the controller) a reduction to be added to the stored on the smart card value balance (awarding the best fare) based on said accumulated information (C. 7, L. 30-34).

Kikuchi does not specifically teach that said information tables are downloaded from the memory of the central computer.

Tracy teaches a method and system for communicating information between a central/facility controller and a portable shopping terminal, including: the central/facility controller having a database comprising a *price lookup table*, a remote self-checkout controller, and a card reader electrically coupled to said self-checkout controller, wherein a price component for a selected by a customer product is communicated (*downloaded*) from said *price lookup table* from the central/facility controller to the self-checkout controller (C. 18, L. 18-21).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kikuchi to include that said information tables are downloaded from the memory of the central computer, as disclosed in Tracy, because it would advantageously enhance the reliability of the system by delegating the processing of said fares to the automatic ticket inspection machines, thereby avoiding dependence of said automatic ticket inspection machines on the central computer.

Furthermore, Kikuchi teaches:

**Claims 20 and 30**, said method and system wherein said mass transit device is a railway gates (Fig. 1, items (101) and (102); C. 1, L. 5-6; C. 3, L. 20-21).

**Claims 21 and 31**, said method and system wherein said information tables are rail gate price point table (Figs. 3, 4; C. 3, L. 20-21).

**Claims 22 and 32**, said method and system wherein said information tables are readable (shared) by a plurality of automatic ticket inspection machines (Figs. 3, 4; C. 3, L. 20-21).

**Claims 23 and 33**, said method and system wherein said accumulated data over a month or a year obviously indicates a start date and an end date (C. 7, L. 42, 55-57).

**Claims 24 and 34**, said method and system wherein said accumulated data over a month or a year obviously indicates a maximum number of days (C. 7, L. 42, 55-57).

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Information as to *maximum number of days is a multiple of seven days* is non-functional language and given no patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. See: *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembiczak* 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999). The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI: (example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed.

**Claims 25 and 35**, said method and system wherein said the smart card stores fare transaction information monthly (February includes 28 days) (C. 7, L. 42, 55-57).

**Claims 26, 27, 29 and 38**, see reasoning applied to claims 19, 28 and 36.

**Claim 37**, said system, wherein said accumulated data over a month or a year obviously indicates a start date, an end date and a maximum number of days (C. 7, L. 42, 55-57).

### ***Response to Arguments***

Applicant's arguments in respect to claims 19-39 were fully considered but are moot in view of new ground of rejection.

### ***Conclusion***

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308-2702.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks***

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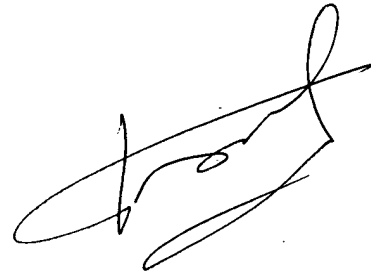
***Washington D.C. 20231***

or faxed to:

**(703) 872-9306** [Official communications; including After Final  
communications labeled "Box AF"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal  
Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

Igor Borissov  
Patent Examiner  
Art Unit 3629

A handwritten signature in black ink, appearing to read 'Igor Borissov', with a large, stylized loop at the end.

IB

2/6/2005